

Meeting of 1999-3-9 Regular Meeting

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
MARCH 9, 1999 - 6:00 P.M.
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Mayor Cecil E. Powell, Also Present:
Presiding Bill Baker, City Manager
 John Vincent, City Attorney
 Brenda Smith, City Clerk
 Lt. Col. Jeff Ewing, Fort Sill Liaison

The meeting was called to order at 6:20 p.m. by Mayor Powell. Notice of meeting and agenda were posted on the City Hall notice board as required by State Law.

ROLL CALL

PRESENT: G. Wayne Smith, Ward One
 Richard Williams, Ward Two
 Jeff Sadler, Ward Three
 John Purcell, Ward Four
 Robert Shanklin, Ward Five
 Charles Beller, Ward Six
 Stanley Haywood, Ward Seven
 Randy Warren, Ward Eight

ABSENT: None.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR MEETING OF FEBRUARY 23, 1999.

MOVED by Smith, SECOND by Sadler, for approval of the minutes. AYE: Beller, Haywood, Warren, Smith, Williams, Sadler, Purcell, Shanklin. NAY: None. MOTION CARRIED.

AUDIENCE PARTICIPATION: None.

BUSINESS ITEMS:

1. Consider implementing public transportation, identify funding alternatives for local share match, and consider requesting the Oklahoma Department of Transportation for an additional \$500,000 under the Federal Transit Administration (FTA) Section 5309 Capital Grant Fund. Exhibits: Operating Budget; Letter from ODOT on additional funding.

Bob Bigham, City Planner, said items to consider are implementation of public transportation, funding for the program, and asking ODOT for the additional \$500,000. He said a task force of City and Lawton Public Schools personnel considered this matter. A transit consultant was hired and report was prepared, which was adopted by Council, but no funding was set aside for the program. A letter was received from Neal McCaleb, Director of Transportation, stating that an additional \$500,000 is available to be added to Lawton's funds for a new start up transit system. Two recommendations are provided, one by staff and one by the City Manager, and the recommendations are not in conflict; both support the program but it becomes a timing issue. The recommended system has five routes with a sixty minute headway, Monday through Saturday, 13 hour service, 14 buses with ten running on fixed route, some for an express route and spares. Buses would be ADA compliant and there would be a contract with a transit management company for operation and maintenance, and rental of a maintenance facility for \$1,500 per month.

Bigham said Lawton is currently allocated funds each year from the Federal Transit Authority for public transportation; if this is not spent, the funds revert to the Department of Transportation and every third year, Lawton loses about \$700,000 that is reallocated to others in the state. There is about \$1.5 million in the fund with ODOT to finance public transportation; however, the City would have to provide a 20% local match share. An

overhead slide was shown addressing budget information provided by the transit consultant; \$285,000 local share match was required initially and it remains at approximately that amount each year. Budget figures include funds to replace the buses in a seven year cycle.

Bigham said additional funds were granted to the states for start up programs according to McCaleb's letter, so the \$500,000 in addition to the normal allocation can only be used for start up of new public transportation programs, or expansion of existing programs. ODOT needs to know if Lawton plans to start a system and if not, they can allocate the money to other cities. Bigham said \$1,500 per month was shown for a maintenance facility lease, but if the additional funds are provided, it is possible that a maintenance facility could be built rather than leased. He said the additional funds would require an additional local share match, but the maintenance facility could be owned and not leased.

Shanklin asked if Lawton had to participate with 20% for the additional \$500,000. Bigham said yes.

Purcell asked if the \$500,000 additional would be available next year, if it is not used this year. Bigham said yes. Purcell asked under what circumstances it would be available. Bigham said if we set up a five route system, and the year after that we decide that a sixth route is needed, the additional start up funds could be requested for the expansion. Purcell said we might want to cut back a little on the start up and get the \$500,000 for that, then apply for it again the following year with an expansion. Bigham said that would be a possibility.

Purcell asked if Lawton could apply next year for the \$500,000. Bigham said yes, and it would be two years before a bus could be on the street if this were approved now. ODOT is currently holding the money for Lawton because they know of the interest and the planning that has been done, although he did not know what decision ODOT would make next year, but the funds would be there.

Beller said there is not really a guarantee that the funds would be available next year and McCaleb's letter states their intention to have the funds obligated and disbursed within the next twelve months. He asked if the application could show the funding source as an upcoming election on capital improvements. Bigham said it goes by federal fiscal year, which would be over with by the fall election, so it would then go to the following year. Beller asked if the funds had to be in-hand, dedicated and ear marked before applying for the \$500,000. Bigham said a dedicated source of funds must be shown for the program. Shanklin said if you put it in the 1999 CIP, it would be dedicated. Beller said the majority of the members seemed to be in favor of the transit system and it had been shown as a priority, but that it should not be funded from the 1995 CIP; he asked if the 1999 CIP could be shown as the funding. Bigham said he did not know that ODOT would accept that because it would be dedicating funds from a non-approved source.

Warren said he had received some negative calls, but the vast majority were in support of this effort. He asked if Council could approve implementation of this program tonight, identify the next CIP as the funding source or the general budget if that initiative failed.

Mayor Powell said it seemed the funding needed to be identified. He said he attended a neighborhood watch meeting last night with about 40 people and every person who spoke was opposed to this. Powell said he also received a call from the CIP watch group and three of them were adamant that existing CIP funds could not be used for this purpose, and they had reviewed the previous ballot which does not mention transportation. He said he was asked to bring that to the Council's attention.

Shanklin said he thought it would be bad business to use 1995 CIP, even if it were legal. Vincent said he would have to review the ballot and items in the code book. Shanklin said Council can implement the program and it could be listed as an item in the 1999 CIP to provide a good cross section of projects.

Williams said he participated in the transit task force for a year and believed it had been identified as the number one need in the community for the last ten years. He said he was not in favor of identifying funding from the 1995 CIP, but any time the federal government will put up 80% of the funding and the local match is less than of 1% of the budget, we should be thinking about a funding mechanism.

Purcell said he agreed with Williams' comments and suggested it be put on the ballot as either part of the 1999 CIP or as a separate item on that ballot to let the people decide. He said the funding would be there next year according to previous statements.

Warren said it would not be appropriate to use 1995 CIP funds. He said he hoped this could be accomplished instead of pushing it off for another year, which has been done before, and it will not come about unless a decision is made to start public transportation.

Sadler said he brought the 1995 CIP which shows wastewater plant, landfill improvements, sanitary sewer survey, sewer system repair, street repair, water treatment plant, repair of city buildings and parks. He said funding should not be taken from 1995 CIP.

Haywood said public transportation is needed and he agreed with Purcell's suggestion to have a separate ballot proposition for transportation during the CIP election. He said he favored implementing public transportation.

Williams said the City's cost of \$285,000 did not factor in any advertising revenue that might be realized through the benches or buses themselves. He said an item coming up on tonight's agenda may produce some revenue which could be used for public transportation.

Beller said he would like to see Lawton apply for the grant contingent upon ODOT's acceptance of the 1999 earmarking of CIP that would be taken to a vote of the people, and that he would make that motion. Purcell offered a second. Beller clarified the motion to be to apply for the grant stating we intend to present this to the people of Lawton in the 1999 CIP, which would have various, prioritized projects, to include public transportation. (withdrawn below)

Shanklin asked if the motion meant that Lawton would implement public transportation. Beller said only if the 1999 CIP is approved by the electorate.

Julie Hill, Transportation Planner, said the only way we can apply for the grant is if there is a funding source identified; an unanticipated funding source, i.e., the next CIP, is not a sure vote and ODOT will not accept a "what if" scenario for the match for the grant. Paperwork can be started but cannot be submitted without an identified funding source.

Beller withdrew the motion and Purcell withdrew the second.

MOVED by Warren, SECOND by Smith, to implement a public transportation system, identifying the source of funding as the next CIP or the general budget in lieu of the failure of that CIP and request the additional funds.

Williams asked if the amount needed could be earmarked from Fund 35. Baker said he did not think \$200,000 could be earmarked because most of the projects will be accomplished or funds encumbered before the end of this year. Williams asked if it was Council's decision to spend those funds. Baker said the Council approved the projects previously and could always delete them. Williams said there was a \$75,000 project at a fire station and assumed those funds were available. Baker said they were looking at using those funds for the Chung Graham building that must be renovated before it can be occupied. Williams asked if CIP funds could be used for that and Baker said yes.

Vincent asked Warren which general fund budget year he was referring to in the motion. Warren said 1999-2000. Vincent said this Council could not allocate funds out of next year's budget. Warren said it would then be 1998-1999 budget. Shanklin said we are trying to implement the program to get the \$1.4 million allocated, yet we are discussing the \$500,000 when he would rather get the \$1.4 million, tell them we will implement the program, put it on the CIP, and when it passes, then go after the \$500,000 that will still be available. Purcell said he did not support trying to come up with \$300,000 from this year's budget or next year's operating budget, and it would have to come out through a vote of the people with a CIP or by a separate item.

Warren said if the people really want the program, there would not be a doubt that the CIP would pass, but if that doubt does exist, then it should not be done. Mayor Powell said the electorate should be given a chance to vote on it as a separate item. Warren said he had no problem either way but did not want to wait another year.

Warren restated the motion as follows: To implement a public transportation system and identify the funding as the proposed 1999 CIP, a separate CIP, or 1998-1999 general budget, in that order.

Mayor Powell asked how long this window is open to apply for the \$500,000. Hill said if ODOT does not have an answer by the end of this month, they will be allocating that money to Oklahoma City and Tulsa. Shanklin asked if Hill was referring to the \$500,000 or the \$1.4 million. Hill said they will be allocating the \$500,000 and then the Mayor should be receiving a letter shortly after that asking for reallocation of the 1996-97 transit money and that would take off about \$700,000 and that would be allocated to the rural transit programs at that time. Smith said it was his understanding that we were not talking about coming up with the funds right now but we must identify the source and it would be two years before it was implemented. He said next year, if the CIP does not pass, it could be included in the budget, but at this time, it is possible to identify this year's budget as the funding source so we can get the application turned in.

Haywood said it will take two years to get it going and asked how soon it could be placed on a ballot. Vincent said the County Election Board must be given 60 days' notice and the election proclamation and resolution would need to be prepared, so it would probably be August, or after the end of the fiscal year.

Shanklin asked if it was not just as important to tell ODOT that there are plans to implement the program, and asked if Council must absolutely determine a funding source tonight. Bigham said the application would be submitted to ODOT for the grant, and in that grant, we will have to be committed to our local share match. Smith

said we do not have to come up with the dollars right now and they will not give it to us next month. Mayor Powell asked when the matching funds had to be submitted. Bigham said it would be pro rated as we go through the expenditures. Bigham said, for clarification, it would take two years to get the buses on the road, but there are a lot of things to do before that happens.

Purcell said if you take it out of the budget for the first year, the City Manager would have to put aside \$285,000 out of this year's budget that cannot be spent, anticipating that it may come from CIP next year. He said if the citizens defeat the CIP, we are stuck with taking \$285,000 out of our operating budget from that day forward and that he did not know how that could be done because it is not just a one time issue but would continue year in and year out. Purcell said we need to ask the people and he agreed it was needed and that he would support it.

SUBSTITUTE MOTION by Purcell, SECOND by Beller, to defer this item until after we go to a vote of the people on the CIP.

Purcell said he did not care if it was with the CIP or a separate item during the CIP election, but that it should not be from the annual operating budget. Vincent asked if the motion was to table and Purcell said no, it is to defer the item and that he did not want to limit discussion.

Williams said we have not touched on the advertising revenue, and the Lawton Public Schools received a good amount of revenue by having a sole source vendor for refreshments at their facilities. He said funds such as that could be used to support this program, and that actual local match could be less than \$285,000. Williams said he would like some action to be taken prior to the fall election.

Beller said Council would have to find \$285,000 tomorrow and he asked the City Manager if it was in the general budget. Baker said it would be difficult to say yes or no, but if Council obligated \$285,000 from the operating budget, it would have a significant impact. Baker said if it is obligated out of this year's budget, it will reduce the carry over for next year's budget; then you will have to obligate an additional \$285,000 for the following year, so the basic impact on the budget is \$600,000; and if you accept the additional \$500,000 grant, there is an additional \$100,000 for each year. Baker said if we get the additional \$500,000, the impact on the budget will be about \$800,000, and he would caution the Council not to obligate against the operating budget for that much money. He said items in the upcoming budget are the 27th pay day, which is almost \$1 million, although the revenue is up, but it will still be difficult to present a preliminary budget that is balanced without additional revenue sources.

Williams asked Bigham how much would have to be earmarked in the 1998-1999 budget. Bigham said it would have to be the full \$385,000 to take advantage of the additional \$500,000.

Purcell said his substitute motion was basically the City Manager's recommendation and he restated the substitute motion as follows: To defer action on implementation of the public transportation system as identified in the Lawton Transit Plan and consider it later as part of the capital improvements program, as either a separate issue or the same.

VOTE ON SUBSTITUTE MOTION: AYE: Williams, Sadler, Purcell, Beller, Haywood. NAY: Warren, Smith, Shanklin. MOTION CARRIED.

Bigham commended Julie Hill and her staff for putting in a lot of hours on the transit report and that they had done a good job.

2. Consider a report on non dedicated roadways and provide direction to staff. Exhibits: Non Dedicated Road Report (sent under separate cover); Memorandum from Airport Manager; List of Roads recommended for dedication; List of Roads to remain private.

Bigham said a report had been prepared showing non dedicated roadways, which has an impact on maintenance, law enforcement, traffic sign identification and so forth. He said the report shows certain roads recommended for dedication where they would remain open to the public, and certain roads recommended to remain private. Information in that regard is inserted herein for the record:

List of Roads recommended for public dedication:

1. Cornish Avenue (South of Lee Blvd., west of SW 24th and north of Jefferson)
2. SE Skyline Drive (South of Lee Blvd., between Flower Mound and Tower Roads)
3. Warwick Way (South of E Gore Blvd., between Camelot and Coachman Drive)
4. NW 50th St (from Cecil Lawson's Dealership on Cache Rd northwesterly to NW 50th)
5. NE 25th St (E Cache Road north to Heritage Estates)
6. SW 6th St (Between Bishop and Coombs Road)
7. SW Douglas Avenue (Between US 281/277B and SW 11th Street)
8. King Road (Entrance road to Airport)

List of Roads recommended to remain private:

1. NW Chimney Creek Drive (Between NW 53rd and Country Club)
2. SW Green Terrace Blvd., SW Westchester Cr., & SW Hampshire Cr. (NW 67th & Gore)
3. Josiah Butler Drive (Driveway from Lawrie Tatum Road to Indian Hospital)
4. NW Lynda Circle (Hoover and NW 20th)
5. No Name (Behind McDonald's on Cache Road)
6. Private Drives (Village Green Apartments, 4600 Block of W Gore)
7. Atlanta (Access easement to pump station at NW 67th and Cache Road)
8. SW G Avenue (North of County Fairgrounds between SW 17th and Sheridan Road)
- 9 & 10 Willow Springs Drive & Willow Wood Loop (West of NW 67th Street south of Cache Rd)
11. Bark Avenue (NW 52nd Street south of Cache Road)
12. Entrance to Gibson's on Cache Road
13. 1100-1200 Block SW Monroe
14. Road in Allison's Corner Subdivision

Williams asked if SW G Avenue is currently a private road and said the City has a speed limit sign there and that he had been stopped on that road. Bigham said that is a good example of the problem, and the roads need to be identified so Public Works and the Police Department know if the roads are private.

Purcell asked why staff recommended that Items 8, 9 and 10 remain private. Bigham said on Item 8 there was a request many years ago made to the County for dedication of both 17th Street and G Avenue, and the County elected to dedicate 17th Street but specifically wanted to keep G Avenue. Willow Springs Drive and Willow Wood Loop in Items 9 and 10 are part of a townhouse association and the association is responsible for the maintenance.

Warren said the item mentions that there will be several man-hours involved in seeking public dedication of certain roads. He asked the estimated cost. Vincent said the responsibility had recently been transferred to his office and on the eight roads recommended for dedication, it would probably take the Right of Way Agent four to five weeks researching ownership records at the County Courthouse because the owners must be notified; the court time itself will not be that much, although time would be consumed in preparing documents and notices, so it would be probably two months' work for just those eight roads. The airport entrance road only is being considered at this time, and the remaining roads at the airport may be brought back for consideration at a later date.

Vincent said the private roads should be posted as such and public signs should be removed; maintenance should not be provided. Shanklin asked if the City had been maintaining the roads. Bigham said that may have been the case, and without a document showing otherwise, someone could call in and request maintenance and it may have been a historical practice of Public Works to maintain a road, although the documentation did not exist to dedicate it as a public roadway. Bigham said a lot of time is spent in research through various cycles and that was the reason for the report.

MOVED by Williams, SECOND by Smith, to accept the report and identify staff's recommendation. AYE: Warren, Smith, Williams, Sadler, Purcell, Shanklin, Beller, Haywood. NAY: None. MOTION CARRIED.

3. Consider approving Change Order No. 1 for the Patterson Center portion of the General Facilities Project 97-13 Phase 1 with Boyles and Associates, Inc. Exhibits: None.

Haywood said the outer doors were steel and during the renovation, they were going to have the interior doors made of steel also. Other centers have glass doors and the participants suggested the bottom portion of the doors be steel but the top portion be glass. He said the tiles are dangerous and torn. Haywood said there was a hidden place by the doors that is proposed to be used as storage, rather than leaving a place where people could hide at night. Haywood said the changes are needed for safety and a better appearance, because the building seemed to resemble a prison where you could not see out of the doors, and it should look like a recreation center.

Purcell said the entire project was scheduled to take 130 days. He asked if the contractor is behind at this point in time. Ihler said no, and the reason for the 60 day time frame on the change order is the delivery time of five to six weeks for the new doors.

MOVED by Haywood, SECOND by Shanklin, to approve Change Order No. 1 for the Patterson Community Center General Facilities Project 97-13, Phase I, with Boyles & Associates, Inc. AYE: Smith, Williams, Sadler, Purcell, Shanklin, Beller, Haywood, Warren. NAY: None. MOTION CARRIED.

4. Consider approving a contract amendment with GBA Architects for the design of improvements to the building at 631 "D" Avenue. Exhibits: Letter dated February 17, 1999, from the Fire Chief; Amendment to Agreement.

Ihler said the building was purchased for Community Development and Fire Administration Offices. To expedite the project, it is recommended that an amendment be made to the existing architect contract with GBA Architects. Cost of architectural services, based on a 5% design fee, would be \$5,000 to \$7,000.

MOVED by Shanklin, SECOND by Smith, to approve the contract amendment with GBA Architects for the design of improvements to the building at 631 "D" Avenue. AYE: Williams, Sadler, Purcell, Shanklin, Beller, Haywood, Warren, Smith. NAY: None. MOTION CARRIED.

5. Consider directing staff to look into whether the City of Lawton could benefit by participating in an advertising program. Exhibits: News Article.

Warren said he had not yet received the additional information from Huntington Beach, CA, on this subject but a news article was provided. He said that city did what the Lawton Public Schools did recently which was to go out for a single source vendor for soft drinks for all city property. Warren asked Council to consider that we are at a point where we cannot look to taxes, CIP, to pay for everything because the make up is changing due to the Internet and e-commerce and taxes that are not being paid to cities and states, and we have to start looking at different ways to pay for things. He said this is something staff should look into. Staff will do so.

6. Consider an ordinance relating to personnel, amending Chapter 17, Lawton City Code, 1995, amending Section 17-161 relating to accrual of vacation hours by an employee; amending Section 17-162 by adding thereto subsection 5 providing for payment of flexible holiday time to regular employees who separate from the City during the fiscal year, providing for severability, and declaring an emergency. Exhibits: Ordinance No. 99-17.

Chuck Bridwell, Human Resources Director, said the proposed ordinance changes the personnel rules for reimbursement of vacation and holiday pay for separating employees. It is changed to reimburse separating employees for what they have accrued to the point at which they leave, and retains the cap of 280 hours annually for vacation and the flexible holiday time remains a use it or lose it system. The City Attorney has determined in his review of state law and case law that it would be appropriate to pass the ordinance.

Beller asked if the Council had a choice if it had to conform to state statute. Vincent said the Council really did not have a choice. Vincent said right now it is 240 hours and 280 hours, and one question is whether to keep it at 280 or reduce it to 240; staff recommendation is to keep it at 280 which is what the employees are being given currently. Beller asked if 240 hours would meet the statutory requirements and Vincent said yes, but it would be taking away 40 hours.

MOVED by Purcell, SECOND by Warren, to approve Ordinance No. 99-17, waive the reading of the ordinance, read the title only, and declare an emergency.

(Title read by Clerk) Ordinance No. 99-17

An ordinance relating to personnel, amending Chapter 17, Lawton City Code, 1995, amending Section 17-161 relating to accrual of vacation hours by an employee; amending Section 17-162 by adding thereto subsection 5 providing for payment of flexible holiday time to regular employees who separate from the City within the fiscal year, and providing for severability, and declaring an emergency.

VOTE ON MOTION: AYE: Sadler, Purcell, Shanklin, Beller, Haywood, Warren, Smith, Williams. NAY: None. MOTION CARRIED.

CONSENT AGENDA: The following items are considered to be routine by the City Council and will be enacted with one motion. Should discussion be desired on an item, that item will be removed from the Consent Agenda prior to action and considered separately.

ITEM 7 WAS CONSIDERED SEPARATELY AS SHOWN BELOW.

8. Consider the following damage claims recommended for approval and consider passage of any resolutions authorizing the City Attorney to file a friendly suit for claims which are over \$400.00: Richard & Mary Johns and George & Hazel Jones. Exhibits: Opinions/Recommendations. Action: Approval of claims. Johns: \$45.00; Jones: \$305.14. No resolutions were adopted.

9. Consider adopting a resolution ratifying the action of the City Attorney in filing and making payment of the judgment in the Workers' Compensation case of Jimmie Lee Jones in the Workers' Compensation Court, Case No. 98-4637Y. Exhibits: Resolution No. 99-21.

(Title only) Resolution No. 99-21

A resolution ratifying the actions of the City Attorney in making payment of the judgment in the Workers' Compensation Case of Jimmie Lee Jones for the amount of Nineteen Thousand Six Hundred and Eighty-Nine Dollars and Sixty Cents (\$19,689.60) per order of the Workers' Compensation Court, and filing a foreign judgment in the District Court of Comanche County for the purpose of placing said judgment on the tax rolls.

10. Consider issuing a revocable permit to Wayne Brown d.b.a. Mr. Z's Winzerhaus to continue utilizing a portion of the street right-of-way adjacent to 1217 NW Cache Road for parking and maneuvering. Exhibits: Site Plan;

Revocable Permit. Action: Approval of the item.

11. Consider a request from Alan and Rose Wilson to purchase a 26'10" x 131'7" tract of land in Block 89, Lawton Heights Subdivision at approximately 1908 NW Taylor Avenue and consider declaring the property nonessential and direct staff to advertise for public sale. Exhibits: Letter of Request; Map; Legal Description. Action: That the 26'10" x 131'7" tract of land be declared nonessential property and authorize staff to advertise the property for public sale.
12. Consider ratifying the actions of the Lawton Water Authority approving the lease of the mineral interests for a 40 acre tract of land located in the vicinity of Lake Ellsworth in Comanche County and authorize the Mayor and City Clerk to execute the lease documents. Exhibits: None. Action: Ratify lease with Marathon Oil Company for \$110 per acre.
13. Consider ratification of the City Attorney's action in not filing a claim or entering the pending Chapter 13 bankruptcy filed by Robert and Lolly Ortiz in Topeka, Kansas. Exhibits: None. Action: Approval of item.
14. Consider ratifying a retainer agreement designating Scott D. Meaders as a special prosecutor in municipal court. Exhibits: None. Action: Approval of item.
15. Consider approving a flowage easement from Kenneth L. White and Margaret L. White to the City of Lawton, Oklahoma, for property in Cotton County for the purpose of permitting and allowing the periodic flowage of floodwater on any channel or tributary of any drainage system located on said tract of land. Exhibits: None. Action: Approve the flowage easement from Kenneth L. White and Margaret L. White to the City of Lawton for the purpose of permitting and allowing the periodic flowage of water on any channel or tributary of any drainage system located on said tract of land.
16. Consider Amendment No. 2 to the agreement for the sale of treated water outside the City limits between the City of Lawton and Comanche County Rural Water District #3 to allow the sale of water under certain conditions within the drainage basin. Exhibits: Letter of Request; Section 4.H of the agreement; Amendment #2; Location Map; 1/7/99 Excerpt of Minutes. Action: Approval of item.
17. Consider authorizing the use of remaining funds from upgrade of Council Chambers sound system. Exhibits: None. Action: Authorize use of funds for purchase of chairs for the Council Chambers.
18. Consider approving plans and specifications for the Elmer Thomas Park Enhancement Project and authorizing the Mayor and City Clerk to execute the final plans for submittal to the Oklahoma Department of Transportation. Exhibits: Map. Action: Approval of item.
19. Consider approving plans and specifications for the Country Club Drive/Barclay Road Waterline Replacement Project 99-4 and authorizing staff to advertise for bids. Exhibits: Map. Action: Approval of item.
20. Consider awarding a construction contract to S.M. Burk Mechanical Contractors for the Street, Driveway and Sidewalk P.C. Concrete Repair Project 99-1. Exhibits: 2/23/99 Bid. Action: Award contract to S.M. Burk Mechanical Contractors in the amount of \$36,255.00.
21. Consider accepting the Neal Boulevard Waterline Project 98-10 as completed by Wee Construction Company, Inc. and placing the maintenance bond into effect. Action: Approval of item.
22. Consider approving a request to continue the contract between the Oklahoma Highway Safety Office and the City of Lawton for a speed enforcement/seat belt/child restraint project. Exhibits: Project contract proposal request. Action: Approval of item. Grant request \$60,264; no local match required.
23. Consider approving Releases of Mortgage on residential properties belonging to Mary L. Patee, AKA Mary L. Bull, Ann D. Porter, Margaret A. Weryavah, Byoung Hi Purdum, Cherrylee M. Fraser, Catherine M. Tharpe, Jose Luis & Teresa Castillo, and Julio & Taressa M. Macias, all of Lawton, Oklahoma, and authorize execution of the Releases of Mortgage. Action: Approval of item.
24. Consider awarding contract for trailers. Exhibits: Bid Abstract; Recommendation. Action: Award contract to Evaco Enterprises, Griffin, GA.
25. Consider awarding contract for manhole forms. Exhibits: Bid Abstract; Recommendation. Action: Award contract to Round Concrete Structures, Inc., Coppel, TX.
26. Consider awarding contract for portable lift station. Exhibits: Abstract; Recommendation. Action: Award contract to Prime Equipment, Lawton, OK.

27. Consider awarding contract for dry barrel fire hydrants. Exhibits: Abstract; Recommendation. Action: Award contract to American Waterworks Supply, Inc., Norman, OK.

28. Consider awarding contract for water meters, parts and repairs. Exhibits: Bid Abstract; Recommendation. Action: Award contract to Sensus Technologies, Uniontown, PA; and Water Products of Oklahoma, Inc., Owassa, OK.

29. Consider approving the following contract extensions: A) Dewatering polymer with Ciba Specialty Chemicals Water Treatment, Inc. f/k/a/ Allied Colloids, Inc. (Wastewater Treatment Plant); B) Sewer Rods with Sewer Equipment Company of America (WWC/WWM). Exhibits: Fact Sheet. Action: Approval of item.

ITEM 30 WAS CONSIDERED SEPARATELY AS SHOWN BELOW.

31. Consider approval of payroll for the period of March 8 through 21, 1999.

Haywood asked for separate consideration of Item 7. Beller asked for separate consideration of Item 30.

MOVED by Smith, SECOND by Warren, to approve the Consent Agenda items as recommended with the exception of Items 7 and 30. AYE: Purcell, Shanklin, Beller, Haywood, Warren, Smith, Williams, Sadler. NAY: None. MOTION CARRIED.

7. Consider the following damage claims recommended for denial: Roy & Pat Joseph and Southwestern Bell Telephone Company. Exhibits: Legal Opinions/Recommendations.

Haywood said Mrs. Joseph would like to speak regarding her claim. Pat Joseph said a sewer backup occurred at her home on January 24. She said this was the second time this had happened but this time it went all through the floors. Mrs. Joseph said the City left her with all of the mess in her house and that she felt violated because no one would clean it up and she had to clean it up. She said she called someone to clean it and they cleaned part of it and she had to pay them \$200. Mrs. Joseph said she did not claim everything that had been damaged because some items could not be replaced, but she took the lowest price she had on the carpet. She said the inside of the house is unhealthy and she had not slept in her bedroom since that day and hardly used the effected areas.

Beller said the legal opinion stated that a review of the records failed to disclose any prior obstructions but that there was an obstruction in 1998 but it was four pipe segments down from the claimant's residence. He said that leaves a question as to whether there was prior notice, and that the amount of \$5,200 may need to be reduced as far as costs for lodging and meals, although there was a loss.

Vincent said four pipe segments in this instance was approximately 1,300 feet of pipe downstream from this residence. Beller asked if that was the only notice of anything in or around this residence. Vincent said the normal situation is that the stoppage must be in her pipe segment or the one immediately downstream from hers. Beller asked the length of her pipe segment. Vincent said pipe segments are generally 300 feet between manholes and the pipe between manholes is considered a pipe segment, and this occurred in the middle of the fifth pipe segment downstream so it was about 1,300 feet. Vincent said the standard used in his office was the actual pipe segment or the one immediately downstream, but he wanted to point out the incident that occurred further away. Depreciation was not calculated and if Council would like to reconsider it, that can be done at a later date.

Purcell asked Mrs. Joseph if this was the second time this had happened at her house. Mrs. Joseph said the first time was July 1996 during the day time but they were able to catch everything in the bathroom. Purcell said staff should check on that further also. Mrs. Joseph said she did not file a claim in 1996 because they cleaned it up themselves. Purcell said Council should be made aware of whether it was the main or the private service line in 1996.

MOVED by Haywood, SECOND by Shanklin, to table the Joseph claim. AYE: Shanklin, Beller, Haywood, Warren, Smith, Williams, Sadler, Purcell. NAY: None. MOTION CARRIED.

Mayor Powell explained the Council's action to Mrs. Joseph and Vincent said his office would send Mrs. Joseph a letter when the claim is returned to the agenda. Staff recommendation was to deny the claim of SW Bell Telephone for \$2,130.76 re: SW 46th & K Ave. on 12/26/98.

MOVED by Warren, SECOND by Williams, to deny the claim of Southwestern Bell. AYE: Beller, Haywood, Warren, Smith, Williams, Sadler, Purcell, Shanklin. NAY: None. MOTION CARRIED.

30. Appointments to Board and Commissions. Exhibits: Memorandum.

The following proposed appointments were considered as shown below:

Human Rights & Relations Commission:

Rev. Gary Bender, African American Rep., Term: 3/9/99 to 9/30/99

Ollie Johnson, African American Rep., Term: 3/9/99 to 9/30/2000

Ronald Ochis, White Rep., Term: 3/9/99 to 9/30/2000

Parks & Recreation Commission:

Mark Deforest, Ward 5 Rep., Term: 3/9/99 to 5/12/2000

Airport Authority:

Keith Bridges, Term: 2/13/99 to 2/13/2002

Beller requested the appointments be approved, with the exception of the Airport Authority based on information he received about some occurrences at the Airport. He said after he got this information, he took the initiative to send to the Attorney General the letter that was addressed at the last Council meeting. He said three or four attorneys had told him that in their opinions it was a violation, and circumstances had compelled him to send it. Beller said he planned to ask for an executive session of the Airport Authority on the morning of March 23 to discuss these issues and hopefully he could make a positive recommendation at the Council meeting that evening.

MOVED by Beller, SECOND by Haywood, to approve the appointments with the exception of the Airport Authority and table that until March 23.

SUBSTITUTE MOTION by Williams, SECOND by Smith, to approve all of the appointments as submitted.

Williams said Council heard at its last meeting that everything was correct and asked what had happened since that time.

Beller said he believed that by sending the letter to the Attorney General that the question would be settled once and for all as to whether there was a violation of the open meeting act. He said he and the Mayor met with some tenants at the airport and were accused of being a splinter group because they talked to people about legitimate concerns. The chairman, Ken Kleypas, met with Beller and the Mayor in the Mayor's office and Kleypas referred to Beller and the Mayor as a splinter group and to the tenants as complainers or whiners. He said Mr. Kleypas called the American Airlines office in Dallas to complain about the local station agent. Beller said he would like to know where Mr. Kleypas got the authority to call the American Airlines office in Dallas and if the Authority met without some members being present and authorized the chairman to call this man's superiors in Dallas and criticize him for what this man had asked regarding legitimate security issues at the airport. The next issue was, because of participation by the transportation officer at Fort Sill, they went to his superior and told him to not let him discuss the parking lot issue that was discussed at the Council meeting. Beller said there are a number of issues that need to be resolved and he was hopeful they could be resolved through executive session, and they met in executive session a few weeks ago and he would not say what they discussed in executive session but what they did discuss should be rediscussed with the members of the Authority. He said nothing had changed after the direction was given to the Airport Manager about what should be done at the Airport with regard to tenants. Beller said the primary issue is whether they violated the open meeting act when they pursued this letter to keep some members off.

Williams said the minutes of the last Council meeting identify some conversation with regard to this appointment and it appeared from that discussion that Beller was satisfied that the letter was not a violation and the Airport Authority would be a much stronger body due to opportunities to clear the air on some unresolved issues. He said he was not sure how this one appointment would matter a lot about what was going on at the Airport, although there may be other issues that may need to be addressed by the Authority. Williams said any time citizens are willing to spend their time and energy to serve on boards and commissions, we should welcome them and this person has a background in aviation and had done a good job in serving on the Authority.

Beller said he felt there was a gray area and this gentleman was one of the participants in distributing the letter and in requesting a copy of the video from the last Council meeting. He said he felt some of the Authority members were being excluded, and he thought there would be an effort to change, but it has not and the members should be made aware of what was happening and know what was going on. Beller said it was not proper to call people a splinter group for having differences of opinion.

Williams said each Council member received a letter from the Airport Manager asking if they would like to tour the airport, and he and the Mayor were the only ones who responded to the City Manager's office saying they would like to see what was going on. He said if the Council members have concerns about how the Airport is being operated or anything else that may be a question, they should probably go out and see how it is being run. He said he did not hear a lot of negative comments other than at Council meetings when appointments are on the agenda.

Shanklin asked if Williams would think everything was fine if the Mayor and a group had an appointment to tour the Airport, and if a tour had been conducted. Williams said he had not been on a tour, although he and the Mayor had offered to take one.

Warren said his comment at the last meeting was that Council was not the group tasked to decide whether it was a violation, and Council should have tabled it last time for the Attorney General decision and take appropriate action

afterward.

VOTE ON SUBSTITUTE MOTION: AYE: Smith, Williams. NAY: Haywood, Warren, Sadler, Purcell, Shanklin, Beller. SUBSTITUTE MOTION FAILED.

VOTE ON ORIGINAL MOTION: AYE: Warren, Smith, Sadler, Purcell, Shanklin, Beller, Haywood. NAY: Williams. MOTION CARRIED.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER.

Purcell said last Saturday between 8 and 10 a.m., the Lawton West Rotary Club and Eisenhower ROTC students policed a mile of road; by Monday at 7:30 a.m., it looked like a trash dump again so the clean up did not even last for 48 hours. He said the litter ordinance should be stringently enforced and publicized. Purcell said if it is not going to be enforced, he would request an item to delete it. He said the litter is not coming from trash cans but from people driving down the street and throwing things out of their cars. Purcell said he knew it was difficult to enforce, but that efforts should be made.

Lt. Col. Ewing said Fort Sill moves about 1,200 to 1,500 soldiers per month to the Lawton Airport, not counting Christmas and holidays, and that much of the military population would likely ride a public transportation system.

Williams said Generation Innovation is a group that was formed when Patricia Hearst came to Lawton for a presentation with the students in the school systems. He said they would have a booth in the upcoming Arts For All Festival in May and encouraged both adults and teens to help out. Williams said the Great Plains AMBUCS Gridiron will be held Saturday evening at the Great Plains Coliseum, and it will be a satirical view of local, state and national events. He said it is a fund raising event for the organization.

Shanklin said he received a letter about the landfill slope and permitting and asked if there were problems. Baker said no, the letter was provided for information showing we are asking DEQ for vertical expansion to add life to the landfill facility.

Haywood said Juanita Gwen rendered life saving first aid yesterday while at Sunset Memorial Gardens at Don Jones' funeral to an elderly man who had collapsed. He asked that recognition be provided and Mayor Powell said he would be happy to do so.

Mayor Powell said the Generation Innovation is a wonderful effort that Council would be hearing more about very soon. He said he spent four days in Washington, D.C. last week and met with Senators Inhofe and Nickles and Congressman Watts, as well as their staff members. Mayor Powell said you cannot tell what can come about from such meetings, but 42 persons attended from this area and it appeared to be a successful effort.

BUSINESS ITEMS:

32. Pursuant to Section 307B2, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the negotiations for a Collective Bargaining Agreement for FY 1999-2000 between the Police Union, IUPA, Local 24, and the City of Lawton. Exhibits: None.

33. Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss settlement in the pending workers' compensation claim of Alpha Omega Cooper, Claim No. 97-15231F, in the Workers' Compensation Court of Oklahoma, and, if appropriate, take action in open session. Exhibits: None.

MOVED by Warren, SECOND by Haywood, to convene in executive session as shown on the agenda and recommended by the legal staff. AYE: Smith, Williams, Sadler, Purcell, Shanklin, Beller, Haywood, Warren. NAY: None. MOTION CARRIED.

The Mayor and Council convened in executive session at 7:45 p.m. and reconvened in regular, open session at approximately 7:56 p.m. with all members present upon roll call.

Vincent reported the Mayor and Council went into executive session to discuss negotiations with the IUPA; negotiations will begin next Thursday. No action is required.

Vincent reported that executive session was held concerning Item 33, a possible settlement of a workers' compensation claim by Alpha Omega Cooper, Workers' Compensation Claim No. 97-15231F. Staff recommendation was to approve the resolution settling the claim in the amount of \$17,500.

MOVED by Williams, SECOND by Warren, to approve Resolution No. 99-22. AYE: Sadler, Purcell, Shanklin, Beller, Haywood, Warren, Smith, Williams. NAY: None. MOTION CARRIED.

(Title only) Resolution No. 99-22

A resolution ratifying the actions of the City Attorney in making payment of the judgment in the Workers' Compensation Case of Alpha Omega Cooper for the amount of Seventeen Thousand Five Hundred and no/100 dollars (\$17,500.00), per order of the Workers' Compensation Court, and filing a foreign judgment in the District Court of Comanche County for purposes of placing said judgment on the tax rolls.

Smith congratulated Council Members Shanklin and Haywood on the unofficial election returns tonight for the Wards 5 and 7 Council positions. Mayor Powell agreed and thanked all of those who participated in the election.

There was no further business to consider and the meeting adjourned at 8:01 p.m. upon motion, second and roll call vote.